

Original filed 11/14/06

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MICHAEL RAYMOND
KENNEDY, SR.,

Petitioner,

vs.

D.K. SISTO, et al.,

Respondent.

No. C 06-5893 JF (PR)

ORDER CORRECTING
ERRONEOUS FILING;
CLOSING CASE;
INSTRUCTIONS TO CLERK


On September 25, 2006, Petitioner, a state prisoner proceeding pro se, filed a “notice of appeal” from the California Supreme Court’s summary denial of his state habeas petition, dated June 14, 2006, which the Clerk of Court construed as a habeas action pursuant to 28 U.S.C. §2254. Petitioner filed an earlier habeas action with the Court on September 22, 2005, case no. C 05-5822 JF (PR).

On October 13, 2006, Petitioner filed a “motion of query” in his closed civil rights action, case no. C 06-2353 JF (PR), notifying the Court that the habeas petition he filed has two separate case numbers - C 06-5822 JF (PR) and C 06-5893 JF (PR). It appears that the instant “notice of appeal” document was mistakenly received and opened as a new case in the instant action.

1 Accordingly, the Clerk is instructed to copy all documents from the instant case and
2 transfer the documents to Petitioner's earlier filed habeas action in case number C 05-
3 5822 JF (PR). Because the instant case was opened erroneously, the Clerk shall close the
4 file and terminate any pending motions. The Court will review the petition in a separate
5 order in case number C 05-5822 JF (PR).

6 IT IS SO ORDERED.

7 DATED: 11/14/06


JEREMY FOGEL
United States District Judge

1 A copy of this ruling was mailed to the following:

2 Michael Raymond Kennedy, Sr.
3 D-26471
4 Solano State Prison
5 P.O. Box 4000
6 Vacaville, CA 95696-4000
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